

# Senate Study Bill 1107

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
HUMAN SERVICES BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An act relating to the conference of eligibility on and  
2 conditions of eligibility for individuals for certain programs  
3 under the purview of the department of human services.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1234DP 82  
6 pf/es/88

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1 1 Section 1. Section 249A.3, subsection 2, paragraph a, Code  
2 2007, is amended to read as follows:  
3 a. As allowed under 42 U.S.C. } 1396a(a)(10)(A)(ii)(XIII),  
4 individuals with disabilities, who are less than sixty-five  
5 years of age, who are members of families whose income is less  
6 than two hundred fifty percent of the most recently revised  
7 official poverty guidelines published by the United States  
8 department of health and human services for the family, who  
9 have earned income and who are eligible for medical assistance  
10 or additional medical assistance under this section if  
11 earnings are disregarded. As allowed by 42 U.S.C. }  
12 1396a(r)(2), unearned income shall also be disregarded in  
13 determining whether an individual is eligible for assistance  
14 under this paragraph. For the purposes of determining the  
15 amount of an individual's resources under this paragraph and  
16 as allowed by 42 U.S.C. } 1396a(r)(2), a maximum of ten  
17 thousand dollars of available resources shall be disregarded,  
18 and any additional resources held in a retirement account, in  
19 a medical savings account, or in any other account approved  
20 under rules adopted by the department shall also be  
21 disregarded. Individuals eligible for assistance under this  
22 paragraph, whose individual income exceeds one hundred fifty  
23 percent of the official poverty guidelines published by the  
24 United States department of health and human services for an  
25 individual, shall pay a premium. The amount of the premium  
26 shall be based on a sliding fee schedule adopted by rule of  
27 the department and shall be based on a percentage of the  
28 individual's income. The maximum premium payable by an  
29 individual whose income exceeds one hundred fifty percent of  
30 the official poverty guidelines shall be commensurate with the  
31 cost of state employees' group health insurance in this state.  
32 The payment to and acceptance by an automated case management  
33 system or the department of the premium required under this  
34 paragraph shall not automatically confer initial or continuing  
35 program eligibility on an individual. A premium paid to and  
2 1 accepted by the department's premium payment process that is  
2 2 subsequently determined to be untimely or to have been paid on  
2 3 behalf of an individual ineligible for the program shall be  
2 4 refunded to the remitter in accordance with rules adopted by  
2 5 the department.  
2 6 Sec. 2. Section 249A.6, Code 2007, is amended to read as  
2 7 follows:  
2 8 249A.6 ASSIGNMENT == LIEN.  
2 9 1. a. As a condition of eligibility for medical  
2 10 assistance, a recipient who has the legal capacity to execute  
2 11 an assignment shall do all of the following:  
2 12 (1) Assign to the department any rights to payments of  
2 13 medical care from any third party.  
2 14 (2) Cooperate with the department in obtaining payments  
2 15 described in paragraph "a".  
2 16 (3) Cooperate with the department in identifying and  
2 17 providing information to assist the department in pursuing any  
2 18 third party who may be liable to pay for medical care and

2 19 services available under the medical assistance program.

2 20 b. Any amount collected by the department through an

2 21 assignment shall be retained by the department as

2 22 reimbursement for medical assistance payments.

2 23 ~~1- 2.~~ When payment is made by the department for medical  
2 24 care or expenses through the medical assistance program on  
2 25 behalf of a recipient, the department shall have a lien, to  
2 26 the extent of those payments, upon all monetary claims which  
2 27 the recipient may have against third parties. A lien under  
2 28 this section is not effective unless the department files a  
2 29 notice of lien with the clerk of the district court in the  
2 30 county where the recipient resides and with the recipient's  
2 31 attorney when the recipient's eligibility for medical  
2 32 assistance is established. The notice of lien shall be filed  
2 33 before the third party has concluded a final settlement with  
2 34 the recipient, the recipient's attorney, or other  
2 35 representative. The third party shall obtain a written  
3 1 determination from the department concerning the amount of the  
3 2 lien before a settlement is deemed final for purposes of this  
3 3 section. A compromise, including but not limited to a  
3 4 settlement, waiver or release, of a claim under this section  
3 5 does not defeat the department's lien except pursuant to the  
3 6 written agreement of the director or the director's designee.  
3 7 A settlement, award, or judgment structured in any manner not  
3 8 to include medical expenses or an action brought by a  
3 9 recipient or on behalf of a recipient which fails to state a  
3 10 claim for recovery of medical expenses does not defeat the  
3 11 department's lien if there is any recovery on the recipient's  
3 12 claim.

3 13 ~~2- 3.~~ The department shall be given notice of monetary  
3 14 claims against third parties as follows:

3 15 a. Applicants for medical assistance shall notify the  
3 16 department of any possible claims against third parties upon  
3 17 submitting the application. Recipients of medical assistance  
3 18 shall notify the department of any possible claims when those  
3 19 claims arise.

3 20 b. A person who provides health care services to a person  
3 21 receiving assistance through the medical assistance program  
3 22 shall notify the department whenever the person has reason to  
3 23 believe that third parties may be liable for payment of the  
3 24 costs of those health care services.

3 25 c. An attorney representing an applicant for or recipient  
3 26 of assistance on a claim upon which the department has a lien  
3 27 under this section shall notify the department of the claim of  
3 28 which the attorney has actual knowledge, prior to filing a  
3 29 claim, commencing an action or negotiating a settlement offer.  
3 30 Actual knowledge under this section shall include the notice  
3 31 to the attorney pursuant to subsection ~~1- 2.~~

3 32 The mailing and deposit in a United States post office or  
3 33 public mailing box of the notice, addressed to the department  
3 34 at its state or district office location, is adequate legal  
3 35 notice of the claim.

4 1 ~~3- 4.~~ The department's lien is valid and binding on an  
4 2 attorney, insurer, or other third party only upon notice by  
4 3 the department or unless the attorney, insurer, or third party  
4 4 has actual notice that the recipient is receiving medical  
4 5 assistance from the department and only to the extent to which  
4 6 the attorney, insurer, or third party has not made payment to  
4 7 the recipient or an assignee of the recipient prior to the  
4 8 notice. Payment of benefits by an insurer or third party  
4 9 pursuant to the rights of the lienholder in this section  
4 10 discharges the attorney, insurer, or third party from  
4 11 liability to the recipient or the recipient's assignee to the  
4 12 extent of the payment to the department.

4 13 ~~4- 5.~~ If a recipient of assistance through the medical  
4 14 assistance program incurs the obligation to pay attorney fees  
4 15 and court costs for the purpose of enforcing a monetary claim  
4 16 upon which the department has a lien under this section, upon  
4 17 the receipt of the judgment or settlement of the total claim,  
4 18 of which the lien for medical assistance payments is a part,  
4 19 the court costs and reasonable attorney fees shall first be  
4 20 deducted from this total judgment or settlement. One-third of  
4 21 the remaining balance shall then be deducted and paid to the  
4 22 recipient. From the remaining balance, the lien of the  
4 23 department shall be paid. Any amount remaining shall be paid  
4 24 to the recipient. An attorney acting on behalf of a recipient  
4 25 of medical assistance for the purpose of enforcing a claim  
4 26 upon which the department has a lien shall not collect from  
4 27 the recipient any amount as attorney fees which is in excess  
4 28 of the amount which the attorney customarily would collect on  
4 29 claims not subject to this section.

4 30 5- 6. For purposes of this section the term "third party"  
4 31 includes an attorney, individual, institution, corporation, or  
4 32 public or private agency which is or may be liable to pay part  
4 33 or all of the medical costs incurred as a result of injury,  
4 34 disease, or disability by or on behalf of an applicant for or  
4 35 recipient of assistance under the medical assistance program.

5 1 6- 7. The department may enforce its lien by a civil  
5 2 action against any liable third party.

5 3 Sec. 3. Section 249J.8, subsection 1, Code 2007, is  
5 4 amended to read as follows:

5 5 1. Beginning July 1, 2005, each expansion population  
5 6 member whose family income equals or exceeds one hundred  
5 7 percent of the federal poverty level as defined by the most  
5 8 recently revised poverty income guidelines published by the  
5 9 United States department of health and human services shall  
5 10 pay a monthly premium not to exceed one-twelfth of five  
5 11 percent of the member's annual family income, and each  
5 12 expansion population member whose family income is less than  
5 13 one hundred percent of the federal poverty level as defined by  
5 14 the most recently revised poverty income guidelines published  
5 15 by the United States department of health and human services  
5 16 shall pay a monthly premium not to exceed one-twelfth of two  
5 17 percent of the member's annual family income. All premiums  
5 18 shall be paid on the last day of the month of coverage. The  
5 19 department shall deduct the amount of any monthly premiums  
5 20 paid by an expansion population member for benefits under the  
5 21 healthy and well kids in Iowa program when computing the  
5 22 amount of monthly premiums owed under this subsection. An  
5 23 expansion population member shall pay the monthly premium  
5 24 during the entire period of the member's enrollment.  
5 25 Regardless of the length of enrollment, the member is subject  
5 26 to payment of the premium for a minimum of four consecutive  
5 27 months. However, an expansion population member who complies  
5 28 with the requirement of payment of the premium for a minimum  
5 29 of four consecutive months during a consecutive twelve-month  
5 30 period of enrollment shall be deemed to have complied with  
5 31 this requirement for the subsequent consecutive twelve-month  
5 32 period of enrollment and shall only be subject to payment of  
5 33 the monthly premium on a month-by-month basis. Timely payment  
5 34 of premiums, including any arrearages accrued from prior  
5 35 enrollment, is a condition of receiving any expansion

6 1 population services. The payment to and acceptance by an  
6 2 automated case management system or the department of the  
6 3 premium required under this subsection shall not automatically  
6 4 confer initial or continuing program eligibility on an  
6 5 individual. A premium paid to and accepted by the  
6 6 department's premium payment process that is subsequently  
6 7 determined to be untimely or to have been paid on behalf of an  
6 8 individual ineligible for the program shall be refunded to the  
6 9 remitter in accordance with rules adopted by the department.

6 10 Premiums collected under this subsection shall be deposited in  
6 11 the premiums subaccount of the account for health care  
6 12 transformation created pursuant to section 249J.23. An  
6 13 expansion population member shall also pay the same copayments  
6 14 required of other adult recipients of medical assistance.

6 15 Sec. 4. Section 514I.10, Code 2007, is amended by adding  
6 16 the following new subsection:

6 17 NEW SUBSECTION. 3. The payment to and acceptance by an  
6 18 automated case management system or the department of the  
6 19 premium required under this section shall not automatically  
6 20 confer initial or continuing program eligibility on an  
6 21 individual. A premium paid to and accepted through the  
6 22 department's premium payment process that is subsequently  
6 23 determined to be untimely or to have been paid on behalf of an  
6 24 individual ineligible for the program shall be refunded to the  
6 25 remitter in accordance with rules adopted by the department.

6 26 EXPLANATION

6 27 This bill provides that the payment of a premium made under  
6 28 the Medicaid, IowaCare, or hawk=i program that is accepted by  
6 29 an automated case management system or the department does not  
6 30 automatically confer initial or continuing program eligibility  
6 31 to an individual. If a premium is paid to and accepted  
6 32 through the department's premium payment process and is  
6 33 subsequently determined to be untimely or to have been paid on  
6 34 behalf of an individual ineligible for the program, the bill  
6 35 requires the payment to be refunded to the remitter in  
7 1 accordance with rules adopted by the department.

7 2 The bill also provides that as a condition of eligibility,  
7 3 a Medicaid recipient who has legal capacity to execute an  
7 4 assignment shall assign to the department any rights to  
7 5 payments of medical care from any third party, cooperate with

7 6 the department in obtaining such payments, and cooperate with  
7 7 the department in identifying and providing information to  
7 8 assist the department in pursuing any third party who may be  
7 9 liable to pay for medical care and services available under  
7 10 Medicaid. Any amount collected by the department through an  
7 11 assignment is to be retained by the department as  
7 12 reimbursement for Medicaid payments.  
7 13 LSB 1234DP 82  
7 14 pf:nh/es/88